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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/081,605

02/21/2002

Gilbert W. Younger

404-035

9612

7590

07/14/2004

Mark P. Stone
25 Third Street
4th Floor
Stamford, CT 06905

EXAMINER

JIMENEZ, MARC QUEMUEL

ART UNIT

PAPER NUMBER

3726

DATE MAILED: 07/14/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/081,605

Applicant(s)

YOUNGER, GILBERT W.

Examiner

Marc Jimenez

Art Unit

3726

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 April 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Information Disclosure Statement

1. The 4R100 document has been received, however, Information Disclosure Statement has been received with the 4R100 document for the examiner to initial and sign. Applicant is requested to submit an Information Disclosure Statement listing the 4R100 document so that this document may be formally cited of record.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. **Claims 1-20** are rejected under 35 U.S.C. 103(a) as being unpatentable over Applicant's Admitted Prior Art [AAPA] (Fig. 1-2 and page 8-11 of applicant's specification) in view of Younger (5,743,823).

[AAPA] teaches that it is known to make an automotive transmission including a torque converter control valve 2 moveable within a valve bore between a first predetermined lower position (fig. 1) and a second predetermined upper position (fig. 2) by the selective application of fluid beneath the torque converter control valve 2, the hydraulic circuitry including a valve 14 opposing upward movement of the torque of the torque converter control valve between the first

Art Unit: 3726

and second predetermined positions (page 8, lines 9-18). There is also a return spring (page 8, line 16), the control valve has upper and lower lands of different diameters (page 8, lines 9-10), and an exhaust opening 8.

[AAPA] teaches the invention cited with the exception of modifying the automotive transmission including removing the valve opposing the upward movement of the torque converter control valve, removing the return spring, replacing the return spring with another spring having greater coefficient of tension, replacing the existing control valve with another control valve having upper and lower lands of substantially equal diameter, and modifying the exhaust opening by replacing the valve bore with a replacement valve bore.

Younger teaches that it is known to modify an existing automotive transmission by modifying the automotive transmission (col. 2, lines 18-23) including removing the valve opposing the upward movement of the torque converter control valve (col. 4, lines 2-3), removing the return spring (col. 4, line 8), replacing the return spring with another spring having greater coefficient of tension (col. 4, line 8) replacing the existing control valve with another control valve (col. 4, line 4) having upper and lower lands of substantially equal diameter (it is inherent that valves come with lands of equal diameter), and modifying the exhaust opening by replacing the valve bore with a replacement valve bore (col. 4, lines 6-7).

It would have been obvious to one of ordinary skill in the art, at the time of the invention, to have provided the invention of [AAPA] with the steps of removing the valve opposing the upward movement of the torque converter control valve, removing the return spring, replacing the return spring with another spring having greater coefficient of tension, replacing the existing control valve with another control valve having upper and lower lands of substantially equal

Art Unit: 3726

diameter, and modifying the exhaust opening by replacing the valve bore with a replacement valve bore, in light of the teachings of Younger, in order to improve operation of the transmission modifying the existing system as suggested by Younger (abstract, lines 1-4).

It is noted that it is well known in the automobile art to modify various systems of the automobile in order to improve efficiency of the vehicle. Furthermore, the Younger patent teaches that it is known to modify an existing engine. Since it is known to modify one type of engine, other types of engines could also be modified with the teachings of the Younger patent.

Response to Arguments

4. Applicant's arguments filed 4/21/04 have been fully considered but they are not persuasive.

5. Applicant argues that Younger does not suggest modifying a "factory installed" transmission as defined in the pending claims. It is noted however, that Younger clearly teaches in col. 3 last line to col. 4, lines 1-8 "The modifications to the original operation and hydraulic circuitry of the "factory installed" automotive transmissions are made by removing structure including original valves, adding structure including new valves, adding new hydraulic circuits to the overall circuitry, discontinuing use of existing circuits to the overall circuitry, discontinuing use of existing circuits by plugging; and modifying the flow through existing hydraulic circuitry by enlarging or reducing the size of fluid flow orifices and adjusting existing spring and pressure values.".

6. Applicant argues that Younger teaches generally modifying an engine and does not teach each of the claimed structural features of the engine. It is noted however that [AAPA] teaches the

Art Unit: 3726

known engine which is modified. Applicant's claims are directed to modifying a known engine. Younger clearly teaches modifying a known engine to improve and modifying existing "factory installed" automotive transmissions at col. 3, lines 52-55. In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

7. One of ordinary skill in the art, for example a person working at an automobile repair shop, given the disclosure of Younger who teaches that it is known to modify existing engines and given the existing engine of [AAPA] with the various structural detail of the engine thereof, would have found it obvious to modify the existing engine of [AAPA] in order to improve the performance of the engine.

Conclusion

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

Art Unit: 3726

however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Interviews After Final

9. Applicant note that an interview after a final rejection will not be granted unless the intended purpose and content of the interview is presented briefly, in writing (the agenda of the interview must be in writing) to clarify issues for appeal requiring only nominal further consideration. Interviews merely to restate arguments of record or to discuss new limitations will be denied. See MPEP 714.13 and 713.09.

Contact Information

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marc Jimenez whose telephone number is (703) 306-5965. The examiner can normally be reached on Monday-Friday between 5:30 a.m.-2:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Vo can be reached on (703) 308-1789. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3726

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read "Marc Jimenez", written in a cursive style.

Marc Jimenez
Patent Examiner
AU 3726

MJ

July 12, 2004